

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 2010 - SB 1976**

March 15, 2022

**SUMMARY OF BILL:** Authorizes a court, district attorney general, or a person convicted of a criminal offense to petition for post-conviction relief (PCR) alleging actual innocence based on new evidence when other forms of post-conviction or collateral review are not reasonably applicable. Prohibits the court clerk from charging a fee for filing the petition. Requires a court to vacate and set aside a conviction if the court determines the petitioner has shown that no reasonable judge or juror would have convicted the petitioner of the offense if the new evidence had been known by the judge or jury at the time guilt was determined or at the time of conviction.

**FISCAL IMPACT:**

**Other Fiscal Impact – To the extent a hearing is held and a defendant’s conviction is vacated, there will be a reduction in state incarceration expenditures. The timing and amount of any sentence reduction is unknown and unable to be determined with reasonable certainty. Any increase in expenditures to the Indigent Defense Fund is dependent upon multiple unknown factors and cannot be reasonably quantified.**

Assumptions:

- The proposed legislation requires a court that has received such a petition to hold a hearing on such a motion, and authorizes the court to vacate and set aside the conviction if outlined criteria is met.
- The burden of proof to show that no reasonable judge or juror would have convicted the petitioner of the offense if the new evidence had been known by the judge or jury at the time guilt was determined, is placed on the petitioner.
- Pursuant to Tenn. Code Ann. § 40-30-102(c), a petitioner is limited to filing one petition for post-conviction relief attacking a single judgment.
- The proposed legislation will result in an increase in PCR petitions filed as it is assumed defendants will be authorized to file a petition each time new evidence is obtained.
- The number of such petitions filed, the outcome of any hearing, and the subsequent convictions that may be vacated and set aside is unknown; however, to the extent a hearing is held and a defendant’s conviction is vacated, there will be a reduction in state incarceration expenditures. The timing and amount of any sentence reduction is unknown and unable to be determined with reasonable certainty.

- Based on information provided by the Administrative Office of the Courts, the proposed legislation will result in an increase in expenditures to the Indigent Defense Fund for attorneys appointed to represent indigent defendants on the new PCR petitions.
- Any increase in expenditures to the Indigent Defense Fund is dependent upon multiple unknown factors and cannot be quantified with reasonable certainty.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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